UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/729,162	WALKER, ERIC
	Examiner	Art Unit	
	DAVID FABER	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 August 2010</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,5,6,8-10,12 and 16-22</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1, 5-6, 8-10, 12, and 16-22</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   **Office Action Summary**   Part of Paper No./Mail Date 20100812

DETAILED ACTION

1.   This office action is made in response to the amendment filed on 4 August 2010.

   This office action is made Final.

2.   Claims 1, 6, 8, 10, 16, 18, and 20 have been amended.

3.   The objection to the specification has been withdrawn as necessitated by the
amendment. The rejection of Claims 6, 8-9, 18 and 20 under 35 USC 101 has been
withdrawn as necessitated by the amendment.

4.   Claims 1, 5-6, 8-10, 12, and 16-22 are pending. Claims 1, 6, 10, 16, 18 and 20
are independent claims.

Claim Objections

5.   Claims 9 and 10 are objected to because of the following informalities:

6.   Claim 9 recites "the system of claim 7" thus stating Claim 9 depends on Claim 7.
However, Claim 7 has been cancelled. The Examiner believes this was typographical
error and will view Claim 9 depending on Claim 6.

7.   Claim 10 recites having a computer readable media. The Examiner believes the
computer readable media is a non-transitory media as now defined in the specification;
however, the Examiner is unsure. Therefore, the Examiner will view the computer
readable media as a non-transitory computer readable media when examining Claim
10.

   Appropriate correction is required.

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 1, 6, 8, 10, 16-18, are 20-22 remain rejected under 35 U.S.C. 103(a) as

being unpatentable over by Coloring.com (Coloring.com, "Coloring.com - free online

interactive coloring pages and coloring books", pp 1-27, 28-31) in further view of Curts

("Microsoft Word - Drawing Tools', p1-4, published as early as March 27, 2003)

Examiner provides printouts (pp5-6) that Microsoft Word - Drawings Tools

publication showing the features had been publicized as early as March 27, 2003.

As per independent claim 1, Coloring.com discloses a method comprising:

- associating a first color and second color with a fill sub-element of a markup

  language shape element, the fill sub-element capable of accepting pattern fill

  content, (pp 6, 7, 8, 9-16,17-18: discloses a web site, using a browser, having

  the ability to show a markup language shape element made up of sub-

  elements (pp 6, list of the images or graphics the user may choose), wherein

  each markup language shape element is a graphic or image being shown

  capable of being separately shown to the user (pp 8 discloses on

  embodiment) of receiving colors (color is an attribute of an image, thus

  content) from the palette on the left menu of colors. PP 9-16, and 18

discloses the source code behind the web page of the markup language

shape element (graphic or image) wherein in its visual form, displaying a

graphic or image that contain many patterns and shapes (sub-elements) used

to form a visual figure, which a person is capable of identifying, e.g. a rabbit

on pp 8, on a different colored background. The code written in HTML

enables the graphic or image to accept colors at different areas/shapes (sub-

elements) of the markup language element. In addition, a user can choose

among the colors on the palette to the left .(pp 8, 17) In addition,. Pp17

discloses an image contains multiple shapes (sub-elements) that capable of

being pattern filled by a color within each shape. (pp 20-22 discloses an

example of pattern filling with a color of a sub-element on the image (markup

language shape element))

- applying a grayscale image as pattern fill content of the fill sub-element, the

  grayscale image containing multiple color tones based only on the

  combination of a first component color and a second component color, the

  first component color set to the first color and the second component color set

  to the second color wherein a. plurality of said multiple color tones are

  rendered using at least some of the first component color and at least some

  of the second component color; (Coloring.com discloses "grayscale" images

  wherein the only two colors shown are white and black; the image containing

  at least (some of) a first component color (white) and at least (some of) a

  second component color (black). Thus, the graphic/image is made up by only

the combination of the two component colors, black and white. White makes

up the area of each shape, while black makes up the outline of the patterns,

and/or shapes. Thus, the grayscale image is used as content for the element

shown in pp 8, 17 of the web page.

- displaying at least the element to a user, the multiple color tones of the

    grayscale image pattern fill content of the sub-element rendered based on a

    combination of the first component color and the second component color;

    (pp 8,17 discloses the sub-element of the element being displayed to the user

    showing the combination of the component colors)

- allowing the user to select respective first colors from a plurality of colors to

    be applied to the first component color, updating the first color associated with

    the fill sub-element with the selected first color, and displaying at least the

    element to a user, the multiple color tones of the grayscale image pattern fill

    content of the fill sub-element rendered based only on a combination of the

    first component color and the second component color, the first component

    color set to the updated first color … wherein the plurality of said multiple

    color tones in said grayscale image rendered using at least some of the first

    component color and at least some of the second component color are

    rendered using the updated first component color (17, 20, 22: pp17

    Coloring.com shows the image (i.e. bunny) containing multiple shapes (sub-

    elements) such that a portion of the shape being pattern fill by a new

    component color. A user selects a color on the color palette on the menu on

the left. Then once the color has been selected, the user clicks on a portion of

a shape (sub-element) to fill it with the selected color. Doing so fills the up

that portion (sub-element) with that color shown in pp 20-22. This

functionality replaces the portion (sub-element) of the content containing the

first component color (white) with a new component color selected from the

palette, thus pattern fill.)

However, Coloring.com fails to specifically disclose allowing the user to select

respective second colors from a plurality of colors to be applied to the second

component color, updating the second color associated with the element with the

selected second color, displaying at least the element to a user, the multiple color tones

of the grayscale image pattern fill content of the full sub-element rendered based on a

combination of the first component color and the second component color, the second

component color set to the updated second color and ... at least some of the second

component color are rendered using the updated second component color. On the other

hand, Curts discloses a feature in Microsoft Word that lets you change the line color

(portion) around the shape.(i.e. sub-element) The user is displayed a palette of colors

that allows the user to change the line color of the shape. Once the user selects the

desired color, it would change the line color from the previous color to the new selected

color (Page 2)

It would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to have modified Coloring.com with the feature Line coloring

changing in Microsoft disclosed by Curts since it would have provided the benefit of the user to customized a graphic or image based on the user's tastes.

As per independent claim 6, Claim 6 recites similar limitations as in claim 1 and is similar rejected under rationale. Furthermore, Coloring.com discloses a system:

- a server system having memory (e.g. FIG 4 discloses a browser connected to a web page based on the URL supplied to the browser. It is inherent browser connect to servers to download web pages from the servers' data storage device (memory) to the computer the browser recites, therefore the browser downloads the web page (Coloring.com) from a server data storage device and is provided to the user computer through the browser. In addition, the interaction between the user and the functionality of Coloring.com is a system.)

- supplying at least the element to a user computer for displaying to a user (pp 8,17 discloses the element being displayed to the user showing the combination of the component colors)

As per dependent claim 8, claim 8 recites similar limitations as in claim 1 and is similarly rejected under rationale.

As per independent claim 10, Claim 10 recites similar limitations as in claim 1 and 6 and is similar rejected under rationale.

As per independent claim 16, Coloring.com recites similar limitations as in Claim 1 6, and 10, and is similar rejected under rationale. Furthermore, Coloring.com discloses a method comprising:

- receiving electronic product desire information, the information including identifiers of a plurality of colors, and (pp 8, 9-16,17-18: Coloring.com discloses a palette of colors that enable a user to from on the left. Therefore, Coloring.com discloses "receiving electronic product design information" as stated)

- processing the received information in the browser program to display an electronic product design to a user, the electronic design including at least the at least one element, the image content of the fill sub-element of the at least one element being generated by applying a color from the plurality of colors as a component color of the grayscale image content of the element.(Using Internet Explorer as shown to access Coloring.com, Coloring.com discloses a "electronic design" that includes an image or graphic made up of sub-elements that has a color replaced by one of the colors selected from the color palette. (pp 20-22)

As per dependent claim 17, Coloring.com discloses:

- allowing the user of the computer to select a first component color from the plurality of colors, (pp 20, 22 shows a palette full of a plurality of individual selectable colors on the left side in which the user able to select a color)

- after the selection of the first selected color by the user, modifying the product design by applying the first selected color as the first component color, and displaying at least the modified content image to the user. (pp 20-22, 23-25: user selects a color, clicks on the already modified portion of the content of colored filled in from pp 22, wherein pp 25 discloses the new color replacing the old color. pp 20-22 discloses replacing the portion of content that is white with a color from the palette)

As per dependent claim 18, Claim 18 recites similar limitations as in claim 1 and is similar rejected under rationale.

As per dependent claim 20, Claim 20 recites similar limitations as in claim 16 and is similar rejected under rationale.

As per dependent claim 21, Coloring.com discloses allowing the user to place an order for the production of one or more products from the electronic product design. (Coloring.com discloses the ability to request print the electronic design after a color has been replaced or in other words place an order for the production (printed copy) of the electronic product design. PP 28 shows the a link that enables a user to print the graphic. Clicking on the link shows pp 29 that shows just the modified image with colors that were added. (PP 29 shows a screenshot taken on 11/9/2006 to show the complete and working functionality of the feature within coloring.com that been accessible since at least November 29, 2002.) Then using the File>Print (shown on pp 30), which pops up a print dialog box (pp 31), a user can "order" a number of printed copies (products) of the electronic design.)

As per dependent claim 22, Claim 22 recites similar limitations as in claim 17 and is similar rejected under rationale. Furthermore, Coloring.com allows a user to select a new color to replace the existing color that was used to fill in the content. (pp20-22, 23-25)

10.   Claims 5, 9, 12, and 19 remain rejected under 35 U.S.C. 103(a) as being unpatentable over (Coloring.com (Coloring.com, "Coloring.com - free online interactive coloring pages and coloring books", pp 1-27, 28-31) in further view of Curts ("Microsoft Word - Drawing Tools', p1-4, published as early as July 26, 2003) in further in view of Sams Publishing,("Sams Teach Yourself Microsoft Publisher 2000 in 10 Minutes", published 5/6/1999, printed pages 1-11, 12-16)

As per dependent claim 5 and 19, Coloring.com discloses the ability to save the modified graphic or image by right-clicking and saving it to a user's system. (pp 26-27) However, Coloring.com fails to disclose incorporating the content image into an electronic product design, displaying the electronic product design to the user, and allowing the user to place an order for the production of one or more products from the electronic product design. However, Sams Publishing discloses that Microsoft Publisher 2000, hereinafter "Publisher", has the ability to create publication pages that include flyers, postcards etc. (pp 1-7) Thus, a user can create a flyer using the publication wizard, then use the insert picture option. (pp 8-10) Doing so, incorporates the saved modified image from the user's system into Publisher's flyer where it is displayed to the user. In addition, a user can request to print the publication which allows the user to

request the publication on paper (product) through the Print options of Microsoft

Publisher 2000 (pp 12 –16)

It would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to have modified Coloring.com's method of coloring grayscale

images to include Sam's Publishing disclosure of Publisher that enables a user to

incorporate images and graphics into a publication since Sams Publishing's disclosure

of Publisher provides the benefit of using Publisher which is an easy-to-use desktop

publishing tool that allows a user to create variety types of publications that include

importing images or graphics to make it look professional.

As per dependent claim 9, claim 9 recites similar limitations as in claim 5 and is

similarly rejected under rationale.

As per dependent claim 12, claim 12 recites similar limitations as in claim 5 and

is similarly rejected under rationale.

Response to Arguments

11.   Applicant's arguments filed 4 August 2010 have been fully considered but they

are not persuasive.

12.   On pages 12-13, Applicant's argue that Coloring.com fail to specifically disclose

the limitation " applying a grayscale image as pattern fill content of the fill sub-element,

the grayscale image containing multiple color tones based only on the combination of a

first component color and a second component color, the first component color set to

the first color and the second component color set to the second color wherein a.

plurality of said multiple color tones are rendered using at least some of the first

component color and at least some of the second component color". Applicant states

that Coloring.com does not show the image having an element filled with multiple colors

tones based only on the combination of two colors and wherein a ~of the multiple color

tones includes a combination of at least some of the first color and at least some of the

second color. The image shown on page 17 of the coloring.com web page shows only

two colors - black and white, neither of which includes at least some black and at least

some white. However, the Examiner disagrees.

Based on the claim language of the limitation, the claim limitation clearly does not

state or explicitly define what the sub-element actually comprises other than being apart

of the grayscale image. In addition, the claim limitation states only the grayscale image

contains the multiple color tones based on the combination of two colors and are

rendered using at least some of the two colors. It's unclear to the Examiner of what the

Applicant means by how "some" of the color is other than its rendered. If any color is

rendered, then at least some of that color is rendered. Nonetheless, when the Applicant

states that Coloring.com shows the colors black and white, but not some of the black

and white, it is unclear to the Examiner what the Applicant means. If the color black or

white is displayed, then it's implicit that at least "some" of the black or white is

displayed. Therefore, based on the claim language of the limitation, the Examiner states

that Coloring.com discloses "grayscale" images wherein the only two colors shown are

white and black; the image containing at least (some of) a first component color (white)

and at least (some of) a second component color (black). Thus, the graphic/image is

made up by only the combination of the two component colors, black and white. White

makes up the area of each shape, while black makes up the outline of the patterns,

and/or shapes. Thus, the grayscale image is used as content for the element shown in

pp 8, 17 of the web page.

13.   On page 14, in regards to the independent claims, Applicant argues that

Coloring.com and Curts fails to specifically disclose the limitations " updating the first

color associated with the fill sub-element with the selected first color and the second

color associated with the fill sub-element with the selected second color; and displaying

at least the element to a user, the multiple color tones of the grayscale image pattern fill

content of the fill sub-element rendered based only on a combination of the first

component color and the second component color, the first component color set to the

updated first color and the second component color set to the updated second color~

and wherein the plurality of said multiple color tones in said grayscale image rendered

using at least some of the first component color and at least some the second

component color are rendered using the updated first component color and the updated

second component color." However, the Examiner disagrees.

        Based on the claim language of claim limitations, the claim language does not

explciity state what the sub-element contains or made up of. In addition, the claim

language states updating a sub-element of the grayscale image (comprising sub-

elements) by updating the two component colors of a sub-element with two new colors.

In other words, the claims are stating replacing the two current colors of the sub-

element with two new colors. Therefore, on pages 17, 20 and 22, Coloring.com shows the image (i.e. bunny) containing multiple shapes (sub-elements) such that a portion of the shape being pattern fill by a new component color. A user selects a color on the color palette on the menu on the left. Then once the color has been selected, the user clicks on a portion of a shape (sub-element) to fill it with the selected color. Doing so fills the up that portion (sub-element) with that color shown in pp 20-22. This functionality replaces the portion (sub-element) of the content containing the first component color (white) with a new component color selected from the palette, thus pattern fill.

However, Coloring.com fails to specifically disclose allowing the user to select respective second colors from a plurality of colors to be applied to the second component color, updating the second color associated with the element with the selected second color, displaying at least the element to a user, the multiple color tones of the grayscale image pattern fill content of the full sub-element rendered based on a combination of the first component color and the second component color, the second component color set to the updated second color and ... at least some of the second component color are rendered using the updated second component color. On the other hand, Curts discloses a feature in Microsoft Word that lets you change the line color (portion) around the shape.(i.e. sub-element) The user is displayed a palette of colors that allows the user to change the line color of the shape. Once the user selects the desired color, it would change the line color from the previous color to the new selected color (Page 2)

Conclusion

14.   THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time
policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE
MONTHS from the mailing date of this action. In the event a first reply is filed within
TWO MONTHS of the mailing date of this final action and the advisory action is not
mailed until after the end of the THREE-MONTH shortened statutory period, then the
shortened statutory period will expire on the date the advisory action is mailed, and any
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of
the advisory action. In no event, however, will the statutory period for reply expire later
than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to David Faber whose telephone number is 571-272-2751.
The examiner can normally be reached Monday-Thursday, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Stephen Hong, can be reached on 571-272-4124. The fax phone number
for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.
Status information for unpublished applications is available through Private PAIR only.
For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

/David Faber/
Examiner, Art Unit 2178

/Stephen S. Hong/

Supervisory Patent Examiner, Art Unit 2178